

OFFENDERS PROBATION AND PAROLE.

No. 3 of 1969.

AN ACT to amend the Offenders Probation and Parole Act, 1963-1965.

[Assented to 21st April, 1969.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Offenders Probation and Parole Act Amendment Act, 1969.* Short title and citation.

(2) In this Act the Offenders Probation and Parole Act, 1963-1965, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Offenders Probation and Parole Act, 1963-1969.

Commence-
ment.

2. The several provisions of this Act shall come into operation on such dates respectively as may be fixed by proclamation in relation to each of those provisions.

Amendment
to S. 3
(Arrange-
ment).

3. Section three of the principal Act is amended by adding after the passage, "PART III.—PAROLE OF OFFENDERS, ss. 21-50." in line four, the passage, "PART IIIA.—ORDERS RELATING TO THE PROBATION AND PAROLE OF OFFENDERS MADE IN ANOTHER STATE OR A TERRITORY, ss. 50A-50W.

Division 1. Probation Orders made in another State or a Territory—Ss. 50A-50L.

Division 2. Parole Orders made in another State or a Territory—Ss. 50M-50T.

Division 3. General—Ss. 50U-50W." .

Amendment
to s. 4
(Interpreta-
tion).

4. Section four of the principal Act is amended—

(a) by adding before the interpretation, "Comptroller General", the following interpretations—

"another State" means any State of the Commonwealth other than this State;

"authority", in relation to a probation or parole order made in another State or a Territory, means the Governor, Governor in Council, Court, Board, committee, person or other authority duly authorised to make the order in question; ;

(b) by substituting for the words, "and an honorary parole officer" in lines three and four of the interpretation, "parole officer" the passage " , an honorary parole officer and a person deemed to be a parole officer under subsection (5a) of section thirty-five of this Act";

(c) by adding after the word, "Officer" being the last word in the interpretation "probation officer", the passage, "and a person deemed to be a probation officer under subsection (5a) of section six of this Act"; and

(d) by adding after the word, "officer" being the last word in the interpretation, "the probation period" a passage as follows—

"

;

"Territory" means a Territory of the Commonwealth"

5. Section six of the principal Act is amended by adding after subsection (5) a subsection as follows—

Amendment to s. 6 (Appointment of Probation Officers).

(5a) A person who holds or occupies—

(a) the office of probation officer; or

(b) any office that is prescribed for the purposes of this Act, to be an office similar to that of probation officer,

in another State or a Territory shall, by virtue of his office and without further appointment or other authority than this subsection, be deemed to be a probation officer for the purposes of a probation order that permits or requires a probationer to reside in that State or Territory. .

6. Section nine of the principal Act is amended—

Amendment to s. 9 (Power of Courts to make probation orders).

(a) by adding after the word, "residence" in lines three and four of subsection (7) the passage, ", whether in this State or another State or a Territory";

(b) by adding after subsection (7) the following subsections—

(7a) Unless the probation order, whether as initially made or as amended, permits or requires the probationer to

reside in another State or a Territory, it is a requirement of the probation order that the probationer shall not leave or remain out of this State except in compliance in every respect with the terms and conditions of a permit issued pursuant to subsection (7b) of this section.

(7b) Where a probation order requires that the probationer shall not leave or remain out of this State, the supervising court, or the Chief Probation Officer, may permit the probationer to leave and remain out of this State for such time and upon such terms and conditions, as it or he thinks fit.

(7c) A permit under subsection (7b) of this section shall be in writing under the hand of the clerk of the supervising court or the Chief Probation Officer, as the case requires, and to the extent necessary to give effect to the permit, the probation order to which the permit relates shall be deemed to be amended and shall apply accordingly. ; and

(c) by adding after subsection (9) the following subsection—

(9a) Where a probationer is permitted or required to reside in another State or Territory, the Chief Probation Officer shall forthwith cause to be sent to the Chief or Principal Probation Officer, or other prescribed officer, of that State or Territory, on being requested by that officer so to do, a copy of the probation order certified under the hand of the Chief Probation Officer as a true copy thereof together with such other documents and information relating to the case as the Chief Probation Officer considers likely to be of assistance to any court, authority or person in the State or Territory with respect to the order. .

7. Section twelve of the principal Act is amended—

Amendment
to s. 12
(Discharge
of probation
order).

(a) by adding after subsection (1) the following subsection—

(1a) Where pursuant to a probation order, a probationer is residing in another State or a Territory and a court of that State or Territory having jurisdiction similar to that of the court by which the probation order was made upon application made by a probation officer, or a person holding an office similar to that of probation officer, of that State or Territory, or by the probationer makes an order for the discharge of the order, the probation order shall be deemed to be discharged accordingly. ; and

(b) by adding after the word, “discharged” in line two of subsection (3), the words, “or is deemed to be discharged”.

8. Section fourteen of the principal Act is amended by adding the following subsection—

Amendment
to s. 14
(Amendment
of probation
order).

(4) Where pursuant to the provisions of a law of another State or a Territory corresponding to section fifty F of this Act, an order amending a probation order is made, the probation order shall be deemed to be amended as specified in the amending order and as so amended the probation order shall apply accordingly. .

9. Section sixteen of the principal Act is repealed and re-enacted as follows—

S. 16
repealed and
re-enacted.

16. (1) A probationer who at any time during the probation period fails to comply, whether in this State or elsewhere, with any express or implied requirement of a probation order made with respect to him, is guilty of an offence against this section.

Breach of
requirements
of probation
order
otherwise
than by
conviction.

See ss. 49 and
50 Act No. 11
of 1902.

(2) If at any time during the probation period it appears on complaint in writing to a justice that a probationer has failed to comply with an express or implied requirement of a probation order, the justice may issue a summons requiring the probationer to appear—

- (a) where the order was made by a court of petty sessions at that court or at the supervising court;
- (b) where the order was made by a court other than a court of petty sessions, at the supervising court,

at the time specified in the summons, or may, if the complaint is in writing and on oath, issue a warrant for the arrest of the probationer and directing that he be brought before a court of petty sessions, being one of the courts referred to in paragraph (a) or (b) of this subsection, as soon as practicable after his arrest.

Power of
courts of
petty
session.

(3) If the court of petty sessions before which a probationer appears or is brought pursuant to subsection (2) of this section, convicts the probationer of an offence against subsection (1) of this section, that court may—

- (a) without prejudice to the continuation of the probation order, impose on him a fine not exceeding One hundred dollars; or
- (b) if the probation order was made by a court of petty sessions—deal with the probationer for the offence in respect of which the probation order was made in any manner in which the court could deal with him if it had just convicted him of that offence; or
- (c) in any other case—commit him to custody or release him on bail, with or without sureties, to be brought or to appear before the court by which the probation order was made.

(4) (a) Where a court of petty sessions exercises the power referred to in paragraph (c) of subsection (3) of this section, that court shall as soon as practicable thereafter send to the Crown Solicitor, a certificate signed by a justice certifying that the probationer has failed to comply with the requirement of the probation order specified in the certificate, together with such other particulars of the case as the court thinks desirable.

(b) A certificate given pursuant to and in accordance with paragraph (a) of this subsection is admissible as evidence before any court of the failure of the probationer to comply with the requirement of the probation order and of the other particulars specified in the certificate.

(5) A certificate purporting to be signed by the proper officer of a court of another State or a Territory before which a probationer is brought pursuant to a law of that State or Territory corresponding to Division 1 of Part IIIA of this Act certifying that the probationer has failed to comply with the requirement of the probation order specified in the certificate and any other particulars of the case as that officer thinks desirable is admissible as evidence before any court of such failure and of the other particulars so specified.

(6) Where a probationer is brought or appears before the Supreme Court or a Court of Session and it is proved to the satisfaction of the court before which he is brought or appears that the probationer has failed to comply with a requirement of the probation order that court may deal with him for the offence in respect of which the probation order was made in any manner in which that court could deal with him if he had just been convicted before that court of that offence.

Powers of
Supreme
Court and
Court of
Session.

(7) Without prejudice to the provisions of section seventeen of this Act, a probationer who is convicted of an offence, other than an offence

Savings.

against subsection (1) of this section, committed during the probation period is not on that account liable to be dealt with under this section for failing to comply with a requirement of the probation order.

Further savings.

(8) A probationer who has been dealt with under the provisions of a law of another State or a Territory corresponding to sections fifty G and fifty H of this Act for failing to comply with a requirement of the probation order is not liable to be dealt with under this section for the act or omission that constituted the failure to comply for which he was so dealt with. .

S. 17 repealed and re-enacted.

10. Section seventeen of the principal Act is repealed and re-enacted as follows—

Breach of probation order by conviction. See ss. 49 and 50 Act No. 11 of 1902.

17. (1) If it appears on complaint in writing to a justice that a person in whose case a probation order has been made has been convicted in this State or elsewhere of an offence, other than an offence against section sixteen of this Act or against a law of another State or a Territory corresponding to section fifty G of this Act, committed during the probation period and has been dealt with in respect of that offence, the justice may issue a summons requiring that person to appear at the time and place specified in the summons or, where the complaint is in writing and on oath, may issue a warrant for his arrest.

(2) A summons or warrant issued under this section shall direct the person so convicted to appear or to be brought before the court by which the probation order was made and if—

(a) that court is a court of petty sessions, the summons or warrant may direct him to appear or to be brought before the supervising court; and

- (b) the warrant is issued requiring him to be brought before the Supreme Court or a Court of Sessions and he cannot forthwith be brought before that Court because it is not then being held, the warrant has effect as if it directed him to be brought before a court of petty sessions and that court shall commit him to custody or release him on bail, with or without sureties, to be brought or to appear before the Supreme Court or Court of Sessions, as the case requires.

(3) If a person in whose case a probation order has been made by any court is convicted and dealt with by another court in respect of an offence, other than an offence against section sixteen of this Act or against a law of another State or a Territory corresponding to section fifty G of this Act, committed during the probation period, that other court may commit him to custody or release him on bail, with or without sureties, to appear or be brought before—

Power of Court on conviction of a person during probation period.

- (a) the court by which the probation order was made; or
- (b) the supervising court if the order was made by a court of petty session,

and if it does so that other court shall send to the Crown Solicitor or the appropriate Clerk of the Court, as the case may require, a certificate of the conviction signed by the proper officer of that court.

(4) A certificate given under and in accordance with subsection (3) of this section is admissible as evidence before any court that the probationer has been convicted and dealt with in respect of the offence therein specified committed in this State during the probation period.

(5) A certificate purporting to be signed by the proper officer of a court of another State or a Territory before which a probationer appears or is brought pursuant to a law of that State or Territory certifying that the probationer has been convicted and dealt with in respect of an offence, other than an offence against a law of that State or Territory corresponding to section fifty G of this Act, committed during the probation period, is admissible as evidence before any court that the probationer has been convicted and dealt with in respect of the offence therein specified committed in the other State or the Territory during the probation period.

(6) Where—

- (a) a probationer is convicted of and dealt with in respect of an offence, other than an offence against section sixteen of this Act or against a law of another State or a Territory corresponding to section fifty G of this Act, committed during the probation period either by the court by which the probation order was made or, if the probation order was made by a court of petty sessions, by the supervising court; or
- (b) it is proved to the satisfaction of the court by which the probation order was made or, if the probation order was made by a court of petty sessions, to the satisfaction of the supervising court that the probationer has been convicted of and dealt with in respect of an offence, other than an offence against section sixteen of this Act or against a law of another State or a Territory corresponding to section fifty G of this Act, committed in this State or elsewhere during the probation period,

such court or such supervising court, as the case may be, may deal with the probationer for the offence for which the order was made in any manner in which it could deal with him if he had just been convicted by or before that court of that offence.

(7) If a probationer in whose case the probation order was made by a court of petty sessions is convicted before the Supreme Court or a Court of Session of an offence committed during the probation period, the Supreme Court or Court of Session may deal with him for the offence for which the order was made in any manner in which the court of petty sessions could deal with him if it had just convicted him of that offence, and any sentence imposed shall be regarded as the sentence of the court of petty sessions except that for the purposes of any appeal against that sentence it shall be regarded as a sentence imposed on a conviction on indictment and the provisions of Chapter LXIX of The Criminal Code, so far as applicable, apply accordingly.

(8) If a probationer in whose case the probation order was made by a Court of Session is convicted before the Supreme Court of an offence committed during the probation period, the Supreme Court may deal with him for the offence for which the probation order was made in any manner in which the Court of Session could deal with him if it had just convicted him before that court of that offence and any sentence imposed by the Supreme Court shall, for all purposes, be regarded as the sentence of the Court of Session.

(9) A probationer who has been dealt with under the provisions of a law of another State or a Territory corresponding to sections fifty J and fifty K of this Act for that he has been convicted of, and dealt with for, an offence committed during the probation period is not liable to be dealt with under this section for that conviction. .

Amendment
to s. 20
(Conviction
on which
probation
granted to be
disregarded
for certain
purposes).

11. Subsection (2) of section twenty of the principal Act is amended by adding after the word, "Act" in line two the passage, "or under a law of another State or a Territory corresponding to Division 1 of Part IIIA of this Act".

Amendment
to s. 30 (2)
(Certificates
of secretary
to Board).

12. Subsection (2) of section thirty of the principal Act is amended by deleting the passage, "upon a matter within its competence," in lines three and four.

Amendment
to s. 34
(Annual
report of
Board).

13. Paragraph (c) of subsection (1) of section thirty-four of the principal Act is amended by adding after the word, "Act" in line one, the words, "so far as it relates to the parole of offenders".

S. 34B
added.

14. The principal Act is amended by adding after section thirty-four A a section as follows—

Application
of this Act
to certain
prisoners
released
pursuant to
s. 705 of
The Criminal
Code.

34B. When the Governor extends the Royal mercy to an offender pursuant to section seven hundred and five of The Criminal Code, upon condition of the offender submitting to his release on parole under this Act, for any period not exceeding five years, the provisions of this Act relating to the parole of offenders apply, with such modifications as circumstances require, to the offender, as if the Board had by order under this Act directed his release from prison on parole for such period.

Amendment
to s. 35
(Appoint-
ment of
officers of
the Board
and parole
officers).

15. Section thirty-five of the principal Act is amended by adding after subsection (5) the following subsection—

(5a) A person who holds or occupies—

(a) the office of parole officer; or

(b) any office that is prescribed for the purposes of this Act to be an office similar to that of a parole officer,

in another State or Territory shall, by virtue of his office and without further appointment or other authority than this subsection, be deemed to be a parole officer for the purposes of a parole order, that permits or requires a prisoner to reside in that State or Territory. .

16. Section thirty-seven of the principal Act is amended—

Amendment
to s. 37
(Fixing
minimum
term to be
served to be
eligible for
parole).

(a) by adding after subsection (3) a subsection as follows—

(4) Where a person is convicted by a court of one or more offences and is sentenced to be imprisoned by the court for the offence or offences, if—

(a) the court directs that the term or terms of imprisonment then imposed by it in respect of the offence or offences shall take effect cumulatively with a term or terms of imprisonment that the person is then undergoing or liable to undergo and in respect of which no minimum term has been fixed; and

(b) the aggregate period of imprisonment that consequently remains to be cumulatively served by the person after the court so directs, amounts to not less than twelve months,

the court, subject to subsection (2) of this section, shall fix a minimum term in respect of the aggregate of the terms of imprisonment that the court so directs are to take effect cumulatively. ;

(b) by adding a subsection as follows—

(5) Where a person is convicted of one or more offences by a court of petty sessions and is sentenced by the court to a term of imprisonment for the offence

or offences and the court is required under this Act, subject to paragraph (a) of subsection (2) of this section, to fix a minimum term as part of such sentence, or the aggregate of such sentences if the court decides not to fix a minimum term pursuant to that paragraph, the court shall endorse the appropriate court record accordingly. ; and

(c) by adding a subsection as follows—

(6) Where a court of petty sessions fails to comply with the provisions of subsection (5) of this section, the court shall be deemed to have fixed a minimum term of one-half of the term of imprisonment referred to in that subsection or one-half of the aggregate of the period or terms of imprisonment referred to in subsection (3) or (4) of this section, as the case requires.

Amendment
to s. 38
(Service of
several
sentences
with mini-
mum terms).

17. Section thirty-eight of the principal Act is amended by adding a subsection as follows—

(3) Notwithstanding section twenty of The Criminal Code, where a person who has been released on parole is sentenced to another term of imprisonment in respect of an offence committed during the parole period, that term of imprisonment shall be served cumulatively upon the unexpired portion of the term of imprisonment in respect of which he was released from prison on parole, unless the court imposing the firstmentioned term otherwise orders.

Amendment
to s. 39
(Regulations
for remission
of portion of
sentence not
to apply
where mini-
mum term
fixed).

18. Section thirty-nine of the principal Act is amended—

(a) by substituting for the word, "The" in line one of subsection (1), the passage, "Subject to subsection (3) of this section, the"; and

(b) by adding the following subsection—

(3) Where a prisoner who—

- (a) is eligible to be released on parole in respect of part of a term of imprisonment; and
- (b) has not been previously released on parole in respect of that term of imprisonment,

is not so released before the date that he would have been released from prison, having regard to the part, if any, of that term of imprisonment that would have been remitted pursuant to the remission regulations on account of his industry and good conduct if those regulations had been duly applied to, or with respect to, him, the prisoner shall be released from prison on that date or as soon thereafter as is practicable unless he is then liable to serve any other term of imprisonment or part thereof. .

19. Section forty of the principal Act is amended—

Amendment
to s. 40
(Court
failing to
fix or
incorrectly
fixing
minimum
sentence).

- (a) by adding after the word, “term” in line one of subsection (1), the words, “or terms”;
- (b) by adding after the word, “is” in line three of subsection (1), the words, “or are”;
- (c) by substituting for the word, “In” in line one of subsection (2), the passage, “Subject to section thirty-seven of this Act, in”; and
- (d) by substituting for the words, “a court of petty sessions” in line seven of subsection (2), the words, “any other court”.

Amendment
to s. 41
(Release
on parole).

20. Section forty-one of the principal Act is amended—

- (a) by deleting the passage, “, having completed a sentence of imprisonment,” in lines two and three of paragraph (b) of subsection (1);
- (b) by adding after the word, “years” being the last word in paragraph (b) of subsection (1), the passage, “or such lesser period as the Governor, having regard to the circumstances of the case, on the recommendation of the Board, orders”;
- (c) by deleting the passage, “, having completed a sentence of imprisonment,” in lines one and two of paragraph (c) of subsection (1);
- (d) by adding after subsection (1) a subsection as follows—

(1a) Notwithstanding the provisions of section six hundred and sixty-five of The Criminal Code, where a prisoner is undergoing or has been sentenced to undergo, a term of imprisonment in respect of which a minimum term has been fixed and has also been sentenced to an indeterminate sentence under The Criminal Code, for the purposes of this section the indeterminate sentence shall be deemed to commence on the expiration of the minimum term. ;

- (e) by adding after the word, “cancel” in line one of subsection (2) the passage, “, amend”;
- (f) by adding after the word, “so” in line three of subsection (2) the words, “amended or”;
- (g) by adding after the word, “regulations” in line sixteen of subsection (3) the words, “and with such other requirements as the Board considers necessary in any particular case and specifies in the order”; and

(h) by adding after subsection (3) the following subsections—

(3a) Without limiting the generality of subsection (3) of this section, the parole order may include requirements relating to the residence of the prisoner in this State or if the prisoner consents, in another State or a Territory.

(3b) Unless the parole order otherwise permits or requires the prisoner to reside in another State or Territory, it is a requirement of every parole order that the prisoner shall not leave or remain out of this State except in compliance in every respect with the terms and conditions of a permit in writing of the Board or of the Chief Parole Officer.

(3c) Where a parole order requires that the prisoner shall not leave or remain out of this State, the Board or the Chief Parole Officer may permit the prisoner to leave and remain out of the State for such time and upon such terms and conditions, as it or he thinks fit.

(3d) A permit under subsection (3c) of this section shall be in writing under the hand of a member of the Board or the Chief Parole Officer, as the case requires, and to the extent necessary to give effect to the permit the parole order shall be deemed to be amended and shall apply accordingly.

(3e) Where a permit is issued by the Chief Parole Officer under subsection (3c) of this section, that officer shall forthwith cause to be sent to the Secretary to the Board a copy of the permit together with a report setting out the facts and circumstances under which the permit was issued.

(3f) Where pursuant to a parole order, a prisoner is required or permitted to reside in another State or a Territory, the Chief Parole Officer shall send to the Chief or Principal Parole Officer, or other prescribed officer, in that State or Territory, on being requested by that officer so to do, a copy of the parole order certified in writing under his hand as a true copy, and such documents and information relating to the case as he considers likely to be of assistance to any authority or officer in the State or Territory with respect to the order. .

S. 41A added.

21. The principal Act is amended by adding after section forty-one a section as follows—

Breach of
parole order
otherwise
than by
conviction.

41A. (1) A prisoner who at any time during the parole period whether in this State or elsewhere fails to comply with a requirement of the parole order is guilty of an offence against this section.

(2) (a) If at any time during the parole period it appears on complaint in writing to a justice that a prisoner has failed to comply with a requirement of a parole order, the justice may issue a summons requiring the prisoner to appear at a court of petty sessions at the time and place specified in the summons or may, if the complaint is in writing and on oath, issue a warrant for his arrest directing that he be brought before a court of petty sessions at the place specified as soon as practicable after his arrest.

(b) The court of petty sessions before which the prisoner is so required to appear or is directed to be brought, as the case may be, has jurisdiction to hear and determine the complaint.

(3) If the court of petty sessions before which the prisoner appears or is brought pursuant to subsection (2) of this section,

convicts the prisoner of an offence against this section, the court may, without affecting the continuation of the parole order, impose on him a fine not exceeding One hundred dollars.

(4) The conviction of a prisoner of an offence against this section does not limit the power of the Board to cancel, suspend, amend or vary his parole pursuant to section forty-four of this Act.

(5) Without limiting the provisions of subsection (2) of section forty-four of this Act, a prisoner who is sentenced to another term of imprisonment in respect of an offence committed during the parole period whether in this State or elsewhere, is not on account of the commission of that offence liable to be dealt with under this section.

(6) A prisoner who has been dealt with under the provisions of a law of another State or a Territory corresponding to section fifty R of this Act for failing to comply with a requirement of the parole order is not liable to be dealt with under this section for the act or omission that constituted the failure to comply for which he was so dealt with.

(7) Where any breach of the requirements of a parole order comes to the knowledge of the Chief Parole Officer, he shall give forthwith notice in writing of the breach to the Board and shall submit such reports upon and information with respect to the breach as the Board requires. .

22. Section forty-two of the principal Act is amended—

(a) by adding before the word, "release" where first occurring in subsection (1), the words, "direct the"; and

(b) by adding the following subsection—

(3) Where a prisoner is released from prison on parole pursuant to this section and his parole has been cancelled, the

Amendment to s. 42 (Release on parole of prisoner serving life sentence except sentences commuted from death sentence or for murder).

Board may from time to time release the prisoner on parole under section forty-five of this Act for such period not exceeding five years, as the Board thinks fit. .

Amendment
to s. 43
(Persons on
parole
deemed still
under
sentence).

23. Section forty-three of the principal Act is amended by adding after the word, "offence" in line five the passage, "other than an offence against section forty-one A of this Act or a law of another State or a Territory corresponding to section fifty R of this Act,".

Amendment
to s. 44
(Power of
Board to
cancel
parole).

24. Section forty-four of the principal Act is amended—

(a) by adding after the word, "cancel" in line five of subsection (1), the passage, " , amend, suspend" ;

(b) by adding after subsection (1) the following subsections—

(1a) Any suspension of a prisoner's parole under subsection (1) of this section may be for a fixed or an indeterminate period as the Board thinks fit.

(1b) The Board may at any time by order in writing, cancel an order suspending a prisoner's parole.

(1c) Where a prisoner's parole has been suspended and during the period of suspension the prisoner's parole has not been cancelled—

(a) by order of the Board under subsection (1) of this section; or

(b) by operation of subsection (2) of this section,

then at the expiration of the period of suspension of the prisoner's parole, or if the order suspending the prisoner's

parole is sooner cancelled, upon such cancellation the parole order again applies with such additional or varied requirements, if any, as the Board may impose and the prisoner shall be released on parole under the order.

(1d) (a) Where pursuant to a parole order a prisoner is residing in another State or a Territory and the Parole Board, or other prescribed authority, of that State or Territory makes an order cancelling, suspending or varying his parole, the parole order shall be deemed to be cancelled, suspended or varied as specified in the order and as so varied applies accordingly.

(b) Where the Parole Board or other prescribed authority of that State or Territory cancels any order suspending a prisoner's parole, the foregoing provisions of this subsection cease to apply in relation to that order. ;

- (c) by adding after the word, "offence" in line three of subsection (2) the passage, "other than an offence against section forty-one A of this Act or a law of another State or a Territory corresponding to section fifty R of this Act," ;
- (d) by adding after the word, "pleasure" in line eleven of subsection (3), the words, "or to apprehend him and bring him before the Board as soon as practicable";
- (e) by adding after the word, "prison" in the last line of subsection (3), the words, "or his being apprehended and brought before the Board";
- (f) by adding after subsection (3) subsections as follow—

(3a) It is not necessary for the Board to meet before any warrant is signed and issued by it under this Act.

(3b) Where a prisoner is brought before the Board pursuant to a warrant issued under subsection (3) of this section the Board—

- (a) may again direct the release of the prisoner on parole; or
- (b) may issue a warrant under that subsection for the return of the prisoner to prison. ;
- (g) by adding after the word, “and” in line four of subsection (4), the passage, “except as hereinafter provided in this section,” ;
- (h) by adding after the word, “detention” being the last word in subsection (4), a passage as follows—

“but where a prisoner is released on parole pursuant to subsection (3b) of this section the Board may, if it thinks fit, order that all or any of the parole period prior to the prisoner being so released on parole shall be regarded as time served in respect of that term or detention, unless his parole is cancelled on a subsequent occasion”; and

- (i) by adding after subsection (4) the following subsections—

(5) Where a prisoner’s parole is suspended by order of the Board, the Board may whenever necessary, by warrant signed by any two members of the Board, authorise any member of the Police Force or other officer to apprehend the prisoner and return him to a prison or institution specified in the warrant to be therein kept in custody for so long as the order suspending his parole remains in force and the warrant is sufficient authority for the prisoner’s apprehension and for his conveyance to the prison or institution specified in the warrant and for his detention therein during the period during which the order suspending his parole remains in force.

(6) Where a prisoner has been imprisoned or detained under the provisions of a law of another State or a Territory corresponding to section fifty Q of this Act, he shall be regarded for the purposes of this Part, as having served or undergone imprisonment or detention, as the case may be, for the period during which he was so imprisoned or detained and that period shall be regarded as time served in respect of his term of imprisonment or detention under the original warrant of commitment or other authority therefor. .

25. Section forty-seven of the principal Act is amended by adding a subsection as follows—

Amendment to s. 47 (Power of Board to fix minimum sentence in relation to prisoners imprisoned when this Act comes into operation).

(3a) Where a person has been released on parole pursuant to subsection (3) of this section, he shall be deemed to have been so released—

- (a) for a period equal to the remainder of the term of imprisonment that he was undergoing at the time of his release; and
- (b) for the purposes of this Act to be a person who has been so released after serving a minimum term in respect of that term of imprisonment. .

26. The principal Act is amended by adding after section fifty the following heading and section—

Heading and s. 50A added.

PART IIIA.—ORDERS RELATING TO PROBATION AND PAROLE OF OFFENDERS MADE IN ANOTHER STATE OR A TERRITORY.

Division 1.—Probation Orders made in another State or in a Territory.

50A. (1) In this Division unless the contrary intention appears—

Interpretation.

“probation order” means a probation order, or an order of a class prescribed to be similar to a probation order made

under Part II of this Act made by a court or other prescribed authority of another State or Territory that requires or permits the probationer to reside in this State.

(2) For the purposes of this Part, a court having jurisdiction similar to the jurisdiction of the court of another State or a Territory by which a probation order was made shall be in the case of a probation order made by—

- (a) the Supreme Court of another State or a Territory, the Supreme Court;
- (b) a Court of General Sessions, Court of Sessions or a Court of Quarter Sessions of another State or Territory, the Supreme Court;
- (c) a court of another State or a Territory constituted by a police, stipendiary or special magistrate or by a justice or justices of the peace, a court of petty sessions constituted by a stipendiary magistrate sitting alone. .

S. 50B
added.

27. The principal Act is amended by adding a section as follows—

Probation
order to have
effect in
this State.

50B. Subject to the provisions of this Division, a probation order has force and effect and the probationer is bound by the requirements thereof, whether express or implied, in all respects as if it were an order made under the provisions of Part II of this Act and those provisions apply, subject to such modifications as circumstances require, to the first mentioned probation order. .

S. 50C
added.

28. The principal Act is amended by adding the following section—

Reports.

50C. (1) The Chief Probation Officer shall cause to be prepared and submitted to the Chief or Principal Probation Officer, or such

other officer or authority as is prescribed, of another State or a Territory in which the probation order was made, such reports upon, and information with respect to, the probationer as such court, officer or authority from time to time requires.

(2) A report made under paragraph (b) of subsection (2) of section eight of this Act shall include a report with respect to probation orders to which this Division applies in relation to the matters specified in that paragraph. .

29. The principal Act is amended by adding the following section— S. 50D
added.

50D. (1) There shall be implied in every probation order a requirement that the probationer— Probationer
to report.

- (a) report in person, or in writing, to the Chief Probation Officer within seventy-two hours after he comes into this State; and
- (b) report in person at such place, within such time, and to such person as may, from time to time, be specified by the Chief Probation Officer by instrument in writing given to the probationer.

(2) Where the Chief or Principal Probation Officer of the State or Territory in which the probation order was made is of opinion, in the circumstances of the case, that any requirement specified in subsection (1) of this section should be waived, he may notify the Chief Probation Officer and the probationer in writing to that effect and thereupon the probationer is not required to comply with that requirement unless and until he is directed to the contrary by the Chief or Principal Probation Officer of that State or Territory.

Assignment
of probation
officer.

(3) Except where the Chief or Principal Probation Officer of the State or Territory in which the probation order was made informs the Chief Probation Officer that the assignment of a probation officer is not required, the Chief Probation Officer shall assign a probation officer to be the probation officer in respect of the probation order and to supervise the probationer in this State during the continuance of the order, and the Chief Probation Officer may from time to time assign another probation officer in respect of the order instead of the probation officer previously assigned. .

S. 50E
added.

30. The principal Act is amended by adding the following section—

Order of
discharge of
probation
order.

50E. (1) A court having jurisdiction similar to the jurisdiction of the court of another State or a Territory by which a probation order was made may, upon application by the probation officer assigned pursuant to subsection (3) of section fifty D of this Act in respect of the order or by the probationer and after due consideration of any report by the Chief or Principal Probation Officer, or other prescribed officer, of that other State or Territory, make an order for the discharge of the probation order and thereupon the order shall for the purposes of this Part be deemed to be discharged accordingly.

(2) Where an order is made pursuant to subsection (1) of this section, the court making the order shall cause to be sent to the Chief or Principal Probation Officer, or other prescribed officer, in the State or Territory in which the probation order was made, a copy of the order, together with such documents and information relating to the matter as it considers likely to be of assistance to any authority or person in the State or Territory with respect to the order. .

31. The principal Act is amended by adding the following section—

S. 50F
added.

50F. (1) A court having jurisdiction similar to that of—

Amendment
of probation
order.

- (a) the supervising court in the State or Territory in which the probation order was made; or
- (b) the court of that State or Territory by which the order was made,

may at any time, upon application by the probation officer assigned pursuant to subsection (3) of section fifty D of this Act in respect of the order or by the probationer, and after due consideration of any report by the Chief or Principal Probation Officer, or other prescribed officer, of that State or Territory, by order amend the probation order by cancelling any requirement thereof or by inserting therein, either in addition to or in substitution of any requirement thereof, any requirement that could be included in that order if it were then being made by the court in accordance with the provisions of Part II of this Act, but the court shall not—

- (c) amend a probation order by reducing the probation period or by extending the probation period beyond the maximum period during which the probationer might have been required by the order to be under the supervision of a probation officer in the State or Territory in which the order was made; and
- (d) except with the consent of the probationer, so amend the probation order that the probationer is thereby required to reside in any institution or in another State or Territory.

(2) Notwithstanding that a probation order of another State or a Territory does not require or permit the probationer to reside in this

State, an amending order may be made pursuant to subsection (1) of this section, on the application of the probationer, permitting or requiring the probationer to reside in this State and thereupon the probation order becomes an order to which this Part applies and shall for the purposes thereof be deemed to be amended accordingly.

(3) The court may direct that any order under subsection (2) of this section has effect retrospectively as from a date specified in the order in that regard.

(4) Where, pursuant to this section, an order is made amending a probation order, the probation order shall for the purposes of this Part, be deemed to be amended as specified in the amending order and as so amended applies accordingly.

(5) Where an amending order is made pursuant to this section, the Registrar or clerk of the court, as the case may be,—

(a) shall forthwith cause to be sent to the Chief or Principal Probation Officer or other prescribed officer, of the State or Territory in which the probation order was made, a copy of the order, together with such documents and information relating to the matter as it considers likely to be of assistance to any authority or person in the State or Territory with respect to the order; and

(b) shall forthwith cause a copy of the order to be given or sent to the probationer and to be sent to the probation officer and to the person in charge of any institution in which a probationer is or was required by the order to reside.

(6) Where pursuant to this section a court proposes to amend a probation order otherwise than on the application of the probationer, the

court may summon him to appear before it, and the court shall not amend a probation order unless the probationer expresses his willingness to comply with the requirements of the order when amended but this subsection does not apply to an order cancelling any requirement of the probation order or reducing the period of any requirement.

32. The principal Act is amended by adding the following section—

S. 50G
added.

50G. (1) A probationer who at any time during the probation period fails to comply with an express or implied requirement of a probation order, is guilty of an offence against this section.

Breach of
probation
order
otherwise
than by
conviction.

(2) If at any time during the probation period it appears on complaint in writing to a justice that a probationer has failed to comply with a requirement of a probation order, the justice may issue a summons requiring the probationer to appear at a court of petty sessions at a time and place specified in the summons or may, if the complaint is in writing and on oath, issue a warrant for the probationer's arrest directing that he be brought before a court of petty sessions at a place specified in the warrant as soon as practicable after his arrest.

(3) The court of petty sessions before which the probationer is so required to appear or is so directed to be brought, as the case may be, has jurisdiction to hear and determine the complaint.

(4) If the court of petty sessions convicts the probationer of an offence against this section, the court may—

(a) without prejudice to the continuation of the probation order, impose on him a fine not exceeding One hundred dollars;

(b) if the probation order was made by a court having in the State or Territory in which the order was made, a jurisdiction similar to the jurisdiction of a court of petty sessions—make an order pursuant to subsection (1) of section fifty H of this Act with respect to the probationer or deal with him in accordance with the provisions of subsection (4) of that section; or

(c) in any other case—commit him to custody or release him on bail, with or without sureties, to be brought or to appear before a court having jurisdiction similar to the jurisdiction of the court of the other State or a Territory by which the order was made.

(5) (a) Where a court of petty sessions exercises the power referred to in paragraph (c) of subsection (4) of this section, that court shall send to the Crown Solicitor a certificate signed by a justice certifying that the probationer has failed to comply with such requirement of the probation order as is specified in the certificate, together with such other particulars of the case as the court thinks desirable.

(b) A certificate given pursuant to paragraph (a) of this subsection is admissible as evidence before any court of such failure and of the other particulars to which it relates.

(6) Without prejudice to the provisions of section fifty J of this Act, a probationer who is convicted of an offence, other than an offence against this section, committed during the probation period, is not on that account liable to be dealt with under this section or section fifty H of this Act for failing to comply with all or any of the requirements of the probation order.

(7) Where the probationer is brought or appears before the Supreme Court or a Court of Session, and it is proved to the satisfaction of

that court that the probationer has failed to comply with a requirement of the probation order, that court may without prejudice to the continuation of the probation order impose a fine not exceeding One hundred dollars, make an order pursuant to subsection (1) of section fifty H of this Act with respect to the probationer or deal with him in accordance with the provisions of subsection (4) of that section.

(8) The provisions of the Justices Act, 1902, so far as applicable and subject to such modifications as circumstances require extend and apply to, and with respect to, all complaints, summonses, warrants and admission to bail referred to in this section.

(9) For the purposes of this section and sections fifty H, fifty J and fifty K of this Act, the court may presume that the person before the court—

- (a) is the probationer in respect of whom the probation order was made unless that person adduces evidence that he is not the probationer in respect of whom the probation order was made; and
- (b) is the person who was convicted of the offence in respect of which the probation order was made unless the person before the court adduces evidence that he is not the person who was convicted of the offence in respect of which the probation order was made. .

33. The principal Act is amended by adding the following section—

50H. (1) A court duly authorised in that behalf under paragraph (b) of subsection (4) or subsection (7) of section fifty G of this Act—

- (a) may order that the probationer be returned to the State or Territory in which the probation order was made; and

S. 50H
added.

Procedure
for dealing
with
probationer
on breach
of order.

(b) may, for that purpose by warrant under hand in the prescribed form, direct that the probationer be kept in custody in a prison, lock-up or other place of detention specified in the warrant, and delivered into the custody of a member of the police force or other person to whom a court, judge, magistrate or justice of the peace of that State or Territory has directed a warrant, in this section referred to as an "interstate warrant", authorising the apprehension of the probationer and directing that he be brought before a court of that State or Territory to be dealt with according to law for failing to comply with all or any of the requirements of the probation order.

(2) A warrant issued by a court of this State under subsection (1) of this section may be executed according to its tenor but the warrant does not authorise the detention in custody of a person after the expiration of a period of fourteen days commencing on the day on which it is issued.

(3) On production to a justice of an interstate warrant, the justice, may make an endorsement as prescribed on that warrant authorising the execution thereof in this State, and the interstate warrant so endorsed—

(a) authorises the member of the Police Force of the State or Territory in which it was issued or other person to whom it is directed, to take the probationer into his custody and to return him to the State or Territory in which the interstate warrant was issued; and

(b) authorises, for that purpose, the detention of the probationer in a prison, lock-up or other place of detention for such period not exceeding fourteen days, as may be specified in the endorsement to the interstate warrant pursuant to this subsection.

(4) Subject to subsection (5) of this section, a court duly authorised in that behalf under paragraph (b) of subsection (4) or subsection (7) of section fifty G of this Act may, where an order under subsection (1) of this section is not made or where made, has been discharged under subsection (7) of this section, deal with the probationer for the offence against section fifty G of this Act in any manner in which the court could deal with him if the act or omission constituting the offence in respect of which the probation order was made had taken place within the jurisdiction of the court and if it had just convicted him of an offence constituted by that act or omission punishable by a penalty not exceeding the maximum penalty prescribed by the law of the State or Territory in which the probation order was made for the offence in respect of which that order was made.

(5) A court shall not deal with a probationer under subsection (4) of this section unless it appears that the appropriate court or authority of the State or Territory in which the probation order was made does not require the return of the probationer to that State or Territory to be dealt with for the offence in respect of which that order was made.

(6) The court before which the probationer is brought may discharge the probationer, admit him to bail on such conditions as it thinks fit, or authorise his detention in a prison, lock-up or other place of detention for a reasonable period not exceeding fourteen days, pending receipt of instructions from the appropriate court or authority in the State or Territory in which the probation order was made whether the return of the probationer to that State or Territory is desired or not.

(7) Where an order has been made under subsection (1) of this section, the court may at any time before the expiration of a period of

fourteen days commencing on the day on which the warrant is issued, discharge the order and may thereupon deal with the probationer as provided by subsection (4) of this section.

(8) A probationer who has been dealt with under the provisions of a law of another State or a Territory corresponding to the provisions of section sixteen of this Act for failing to comply with a requirement of the probation order is not liable to be dealt with under this section or under section fifty G of this Act for the act or omission that constituted the failure to comply for which he was so dealt with.

(9) A sentence imposed by the Court pursuant to subsection (4) of this section shall be regarded as a sentence imposed on a conviction and where the court is the Supreme Court or a Court of Session the provisions of Chapter LXIX of The Criminal Code so far as applicable apply accordingly for the purposes of any appeal against the sentence.

S. 50J
added.

34. The principal Act is amended by adding the following section—

Breach of
order by
conviction.

50J. (1) A probationer who is convicted of an offence, other than an offence against section fifty G of this Act, committed during the probation period and is dealt with in respect of that offence, is guilty of an offence against this Act and is liable to be dealt with as provided in this section.

(2) If it appears on complaint in writing to a justice that a person in whose case a probation order has been made, has been convicted of an offence, other than an offence against section fifty G of this Act, committed during the probation period, and has been dealt with in respect of that offence, the justice may issue a summons requiring that person to appear at the time and place specified in the summons, or, where the complaint is in writing and on oath, may issue a warrant for his arrest.

(3) A summons or warrant issued under subsection (2) of this section shall direct the person so convicted to appear or be brought before a court having jurisdiction similar to the jurisdiction of the court of another State or a Territory by which the probation order was made.

(4) If a person in whose case a probation order has been made is convicted and dealt with in respect of an offence, other than an offence against section fifty G of this Act, committed during the probation period by a court not having jurisdiction similar to that of the court of another State or a Territory by which the order was made, that court may commit him to custody or release him on bail, with or without sureties, to be brought or to appear before a court having jurisdiction similar to that of the court of another State or a Territory by which the probation order was made; and if it does so that court shall send to the Crown Solicitor a certificate of the conviction signed by the proper officer of that court.

(5) A certificate given pursuant to subsection (4) of this section is admissible as evidence before any court that the probationer has been convicted and dealt with in respect of the offence therein specified committed in this State during the probation period.

(6) Where—

- (a) a probationer is convicted of and dealt with in respect of an offence, other than an offence against section fifty G of this Act, committed during the probation period by a court having jurisdiction similar to that of the court of another State or a Territory by which the probation order was made; or
- (b) it is proved to the satisfaction of a court having jurisdiction similar to that of the court of another State or

a Territory by which the probation order was made that the probationer has been convicted of and dealt with in respect of an offence, other than an offence against section fifty G of this Act, committed during the probation period,

the court may make an order pursuant to subsection (1) of section fifty K of this Act with respect to the probationer or deal with him in accordance with the provisions of subsection (4) of that section.

(7) Where a probationer in whose case the probation order was made by a court of another State or a Territory having jurisdiction similar to that of a court of petty sessions is convicted before the Supreme Court or a Court of Session of an offence committed during the probation period, the Supreme Court or Court of Session may make an order pursuant to subsection (1) of section fifty K of this Act with respect to the probationer or deal with him in accordance with the provisions of subsection (4) of that section, and any sentence imposed shall be regarded as the sentence of a court of petty sessions.

(8) Where a probationer in whose case the probation order was made by a court of another State or a Territory having jurisdiction similar to that of a Court of Session is convicted before the Supreme Court of an offence committed during the probation period, the Supreme Court may make an order pursuant to subsection (1) of section fifty K of this Act with respect to the probationer or deal with him in accordance with the provisions of subsection (4) of that section, and any sentence imposed shall, for all purposes, be regarded as the sentence of a Court of Session imposed on a conviction of indictment. .

35. The principal Act is amended by adding the following section—

s. 50K
added.

50K. (1) A court duly authorised in that behalf under subsection (6), (7) or (8) of section fifty J of this Act—

Conse-
quences on
conviction.

- (a) may order that the probationer be returned to the State or Territory in which the probation order was made either forthwith or at the expiration, or at any time before the expiration, of a term of imprisonment or detention which he is serving or to which he has been sentenced; and
- (b) may, for that purpose, by warrant under hand in the prescribed form direct that the probationer be kept in custody in a prison, lock-up or other place of detention specified in the warrant and delivered into the custody of a member of the Police Force or other person to whom a court, judge, magistrate or justice of the peace of that State or Territory has directed a warrant, in this section referred to as an "interstate warrant", authorising the apprehension of the probationer and directing that he be brought before a court of that State or Territory to be dealt with according to law for that he has been convicted of and dealt with for an offence committed during the probation period.

(2) A warrant issued by a court of this State under subsection (1) of this section may be executed according to its tenor but the warrant does not authorise the detention in custody of a person after the expiration of a period of fourteen days commencing on the day on which that person is taken into custody or commences to be detained under the warrant.

(3) On production to a justice of an interstate warrant, the justice, may make an endorsement as prescribed on that warrant authorising the execution thereof in this State and the interstate warrant when so endorsed—

- (a) authorises the member of the Police Force of the State or Territory in which it was issued or other person to whom it is directed to take the probationer into his custody and to return him to the State or Territory in which the interstate warrant was issued; and
- (b) authorises, for that purpose, the detention of the probationer in a prison, lock-up or other place of detention for such period not exceeding fourteen days as may be specified in the endorsement to the interstate warrant pursuant to this subsection.

(4) Subject to subsection (5) of this section, a court duly authorised in that behalf pursuant to subsection (6), (7) or (8) of section fifty J of this Act may, where an order under subsection (1) of this section is not made or, where made, has been discharged under subsection (7) of this section, deal with the probationer for the offence against section fifty J of this Act in any manner in which the court could deal with him if the act or omission constituting the offence in respect of which the probation order was made had taken place within the jurisdiction of the court and if it had just convicted him of an offence constituted by that act or omission and punishable by a penalty not exceeding the maximum penalty prescribed by the law of the State or Territory in which the probation order was made for the offence in respect of which that order was made.

(5) A court shall not deal with a probationer pursuant to subsection (4) of this section unless it appears that the appropriate court or authority of the State or Territory in which the

probation order was made does not require the return of the probationer to that State or Territory to be dealt with for the offence in respect of which that order was made.

(6) The court before which the probationer is brought may discharge the probationer, admit him to bail on such conditions as it thinks fit, or authorise his detention in a prison, lock-up or other place of detention for a reasonable period not exceeding fourteen days, pending receipt of instructions from the appropriate court or authority in the State or Territory in which the probation order was made whether the return of the probationer to that State or Territory is desired or not.

(7) Where an order has been made under subsection (1) of this section, the court may at any time before the expiration of a period of fourteen days commencing on the day on which the warrant issued under that subsection is expressed to take effect discharge the order and may thereupon deal with the probationer as provided by subsection (4) of this section.

(8) A probationer who has been dealt with under the provisions of a law of another State or a Territory corresponding to the provisions of section seventeen of this Act for that he has been convicted of, and dealt with for, an offence committed during the probation period is not liable to be dealt with under this section or under section fifty J of this Act on account of that conviction.

(9) Any sentence imposed by the court pursuant to subsection (4) of this section shall be regarded as a sentence imposed on a conviction and where the court is the Supreme Court or a Court of Session the provisions of Chapter LXIX of The Criminal Code so far as applicable apply accordingly for the purposes of any appeal against that sentence. .

S. 50L
added.

36. The principal Act is amended by adding the following section—

Application
of ss. 17 and
18 of this
Act.

50L. In the application of sections seventeen and eighteen of this Act pursuant to section fifty B of this Act, for the purposes of this Part the provisions of the firstmentioned sections shall be read as if the reference therein to the foregoing provisions of this Act were a reference to the provisions of Division 1 of Part IIIA of this Act. .

Division 2
and s. 50M
added.

37. The principal Act is amended by adding the following heading and section—

Division 2.—Parole Orders made in another State or in a Territory.

Interpreta-
tion.

50M. In this Division unless the contrary intention appears, "parole order" means a parole order or any order of a class prescribed to be similar to a parole order made under Part III of this Act by the Parole Board or other prescribed authority of another State or of a Territory that requires or permits the prisoner to reside in this State. .

S. 50N
added.

38. The principal Act is amended by adding the following section—

Parole
orders to
have effect
in this State

50N. (1) Subject to this Division, a parole order has force and effect and the prisoner is bound by the requirements thereof, whether express or implied, in all respects as if it were a parole order made under Part III of this Act and that Part applies, subject to such modifications as circumstances require, to the first-mentioned parole order.

Reports.

(2) A report made in accordance with subsection (1) of section thirty-four of this Act shall include a report with respect to parole orders to which this Division applies in relation to the matters specified in that subsection.

(3) The Chief Parole Officer shall cause to be prepared and submitted to the Parole Board or other prescribed authority, or to the Chief or Principal Parole Officer, of another State or a Territory in which the parole order was made such reports upon, and information with respect to, any prisoner as that Board, authority or officer requires from time to time. .

39. The principal Act is amended by adding the following section— S. 50P added.

50P. (1) There shall be implied in every parole order a requirement that the prisoner— Implied requirements of parole orders.

- (a) report in person, or in writing, to the Chief Parole Officer within seventy-two hours after he comes into this State; and
- (b) report in person at such place, within such time and to such person as may, from time to time, be specified by the Chief Parole Officer by instrument in writing given or sent to the prisoner.

(2) Where the Chief or Principal Parole Officer of the State or Territory in which the parole order was made is of opinion, in the circumstances of the case, that any requirement specified in subsection (1) of this section should be waived, he may notify the Chief Parole Officer and the prisoner in writing to that effect and thereupon the prisoner is not required to comply with that requirement unless and until he is directed to the contrary by the Chief or Principal Parole Officer of that State or Territory.

(3) Except where the Chief or Principal Parole Officer of the State or Territory in which the parole order was made informs the Chief Parole Officer that the assignment of a parole Assignment of parole officer.

officer is not required, the Board or the Chief Parole Officer shall assign a parole officer to supervise the prisoner in this State during the parole period and may from time to time so assign another parole officer instead of the parole officer previously assigned.

S. 50Q
added.

40. The principal Act is amended by adding the following section—

Cancellation,
etc., of parole
order.

50Q. (1) The Board may, at any time before the expiration of the parole period after due consideration of any report by the Chief or Principal Parole Officer of the State or Territory in which the parole order was made, by order cancel, suspend, amend or vary the prisoner's parole and thereupon the parole order shall, for the purposes of this Part, be deemed to be cancelled, suspended, amended or varied as specified in the order, and as so amended or varied applies accordingly.

(2) (a) A suspension of a prisoners's parole under subsection (1) of this section may be for a fixed or an indeterminate period as the Board thinks fit.

(b) The Board may at any time cancel an order made under subsection (1) of this section suspending a prisoner's parole.

(c) Where the Parole Board or other prescribed authority of that State or Territory cancels any order suspending a prisoner's parole, the foregoing provisions of this subsection ceases to apply in relation to that order.

(3) Where a prisoner's parole has been suspended under this section and during the period of the suspension the prisoner's parole has not been cancelled for the purposes of this Part of this Act whether by order of the Board or by the operation of subsection (6) of this section, then at the expiration of the period of

suspension of the prisoner's parole, or, if the order suspending the prisoner's parole is sooner cancelled upon such cancellation, the parole order again applies with such additional or varied requirements, if any, as the Board imposes and the prisoner shall be released on parole under the order.

(4) Where a prisoner's parole is suspended by order of the Board, the Board may whenever necessary, by warrant signed by any two members of the Board, authorise any member of the Police Force or other officer to apprehend the prisoner and to convey him to a prison, lock-up or other place of detention specified in the warrant to be therein kept in custody for so long as the order suspending his parole remains in force and the warrant is a sufficient authority for the prisoner's apprehension and for his conveyance to the prison, lock-up or other place of detention specified in the warrant and for his detention therein during the period during which the order suspending his parole remains in force.

(5) Where an order is made under subsection (1) of this section, the Chief Parole Officer shall forthwith—

- (a) cause to be sent to the Chief or Principal Parole Officer, or other prescribed officer, of the State or Territory in which the parole order was made, a copy of the order, together with such documents and information relating to the matter as he considers likely to be of assistance to any authority or officer in the State or Territory with respect to the order; and
- (b) cause a copy of the order to be sent to the prisoner and the parole officer assigned to supervise the person.

(6) Where the prisoner is sentenced to a term of imprisonment in respect of any offence, other than an offence against section fifty R of

Cancellation
of parole by
conviction.

this Act, committed during the parole period or where the prisoner's parole has been cancelled by, or under the provisions of, a law of the State or Territory in which he was released upon parole corresponding to subsection (2) of section forty-four of this Act, his parole is by force of this subsection cancelled for the purposes of this Part of this Act, notwithstanding that the parole period may already have elapsed.

Warrant for
return of
prisoner to
other State.

(7) Where a prisoner's parole is cancelled for the purposes of this Part of this Act whether by order of the Board or by the operation of subsection (6) of this section, the Board—

- (a) may order that the prisoner be returned to the State or Territory in which he was released on parole either forthwith or at the expiration, or at any time before the expiration, of any term of imprisonment or detention which he is serving or to which he has been sentenced; and
- (b) may, for that purpose, by warrant in the prescribed form signed by any two members of the Board, whenever necessary authorise any member of the Police Force or other officer to apprehend the prisoner and convey him to such prison, lock-up or other place of detention as may be specified in the warrant and direct that the prisoner be kept in custody in the prison, lock-up or other place of detention so specified and thereafter delivered into the custody of a member of the Police Force or other person to whom the Parole Board, or other prescribed authority, of the State or Territory in which the parole order was made, has directed a warrant, in this section referred to as an "interstate warrant", authorising the apprehension of the

prisoner and directing that he be returned to a prison or institution in that State or Territory, as the case requires—

- (i) to serve the unexpired portion of his term of imprisonment, or detention; or
- (ii) in the case of a person who immediately prior to his release on parole was being detained during Her Majesty's pleasure, to be further so detained.

(8) A warrant issued pursuant to subsection (7) of this section may be executed according to its tenor but the warrant does not authorise the detention in custody of a person after the expiration of a period of fourteen days commencing on the day on which that person is taken into custody or commences to be detained under the warrant.

(9) On production to a justice of an interstate warrant, the justice, may make an endorsement as prescribed on the warrant authorising the execution thereof in this State and the interstate warrant when so endorsed—

- (a) authorises the member of the Police Force of the State or Territory in which it was issued or other person to whom it is directed to take the prisoner into his custody and to return him to the State or Territory in which the interstate warrant was issued; and
- (b) authorises, for that purpose, the detention of the prisoner in a prison, lock-up or other place of detention for such period not exceeding fourteen days as may be specified in the endorsement to the interstate warrant pursuant to this subsection.

Warrants for
imprison-
ment of
prisoners.

(10) Subject to subsection (12) of this section, where a prisoner's parole is cancelled for the purposes of this Part of this Act whether by order of the Board or by the operation of subsection (6) of this section, the Board may, where an order pursuant to subsection (7) of this section is not made or, where made, has been discharged pursuant to subsection (13) of this section, by warrant signed by two members of the Board authorise any member of the Police Force or other officer to apprehend the prisoner and convey him to such prison or institution as may be specified in the warrant to serve a period of imprisonment or detention equal to the unexpired portion of the term of imprisonment or detention which he was undergoing in the State or Territory in which he was released upon parole immediately prior to his release and as specified in the warrant, or where prior to his release on parole in that State or Territory he was being detained during Her Majesty's pleasure, to be further so detained and the warrant is sufficient authority for his apprehension and his conveyance to prison or an institution, accordingly.

(11) Subject to subsection (12) of this section, where a prisoner's parole is cancelled for the purposes of this Part of this Act whether by order of the Board or by operation of subsection (6) of this section, the Board may where an order under subsection (7) of this section is not made, or where made, has been discharged pursuant to subsection (13) of this section, issue a warrant of commitment for the prisoner's imprisonment or detention, as the case may require, in a prison or institution specified in the warrant—

- (a) for a period of imprisonment equal to the unexpired portion of that term where he was undergoing a term of imprisonment immediately prior to his release upon parole;

- (b) for a period of detention equal to the unexpired portion of that term where he was undergoing detention for a period immediately prior to his release upon parole;
- (c) for his detention at Her Majesty's pleasure where he was being detained at Her Majesty's pleasure immediately prior to his release upon parole,

and the warrant is sufficient authority for his detention in that prison or institution accordingly.

(12) The Board shall not deal with a prisoner under subsection (10) or (11) of this section unless it appears to the Board that the Parole Board, or other prescribed authority, of the State or Territory in which the prisoner was released upon parole does not require that he be returned to a prison or institution in that State or Territory to serve the unexpired portion of his term of imprisonment or detention or, in the case of a person who immediately prior to his release on parole was being detained during Her Majesty's pleasure, to be further so detained.

(13) Where an order has been made pursuant to subsection (7) of this section, the Board may, at any time before the expiration of a period of fourteen days commencing on the day on which the prisoner is taken into custody under the warrant, discharge the order and may thereupon deal with the prisoner as provided by subsections (10) and (11) of this section. .

41. The principal Act is amended by adding the following section—

S. 50R
added.

50R. (1) A prisoner who at any time during the parole period fails to comply with an express or implied requirement of the parole order, is guilty of an offence against this section.

Breach of
requirements
of parole
order.

(2) If at any time during the parole period it appears on complaint in writing to a justice that a prisoner has failed to comply with an express or implied requirement of the parole order, the justice may issue a summons requiring the prisoner to appear at a court of petty sessions at a time and place specified in the summons or may, if the complaint is in writing and on oath, issue a warrant for his arrest directing that he be brought before a court of petty sessions at a place specified in the warrant as soon as practicable, after his arrest.

(3) The court of petty sessions before which the prisoner is so required to appear or is so directed to be brought, as the case may be, has jurisdiction to hear and determine the complaint.

(4) If the court of petty sessions before which the prisoner appears or is brought pursuant to subsection (2) of this section, convicts the prisoner of an offence against this section, the court may, without prejudice to the continuation of the parole order, impose on him a fine not exceeding One hundred dollars or sentence him to imprisonment for a term not exceeding three months.

(5) The conviction of a prisoner of an offence against this section does not limit the power of the Board by order to cancel, suspend, amend or vary the parole order pursuant to section fifty Q of this Act.

(6) Without prejudice to the provisions of subsection (6) of section fifty Q of this Act, a prisoner who is sentenced to another term of imprisonment in respect of an offence, other than an offence against this section, committed during the parole period is not on account of the conviction for that offence liable to be dealt with under this section.

(7) A prisoner who has been dealt with under the provisions of a law of another State or Territory corresponding to section forty-one A of this Act for failing to comply with a requirement of the parole order is not liable to be dealt with under this section for the act or omission that constituted the failure to comply for which he was so dealt with.

(8) The provisions of the Justices Act, 1902, so far as applicable and subject to such modifications as circumstances require, extend and apply to and with respect to all complaints, summonses and warrants referred to in the foregoing provisions of this section.

(9) For the purposes of this section and section fifty Q of this Act, a court or the Board may presume that the person before the court or the Board is the prisoner in respect of whom the parole order was made unless that person adduces evidence that he is not the prisoner in respect of whom the parole order was made.

(10) Where any breach of a requirement of a parole order comes to the knowledge of the Chief Parole Officer, he shall give forthwith notice in writing of the breach to the Secretary to the Board and shall submit to him such reports upon and information with respect to the breach as the Secretary to the Board requires. .

42. The principal Act is amended by adding the following section— B. 50S added.

50S. (1) The Board may release from prison upon parole a prisoner undergoing imprisonment or detention pursuant to this Part of this Act and the provisions of Part III of this Act shall subject to such modifications as circumstances require be applicable to the parole order and to the prisoner during the parole period. Release on parole after cancellation.

(2) The Board may release a prisoner on parole notwithstanding that his parole has been cancelled on any prior occasion or occasions under the provisions of this Part of this Act in respect of the same term of imprisonment, detention for a period, or detention during Her Majesty's pleasure. .

S. 50T added.

43. The principal Act is amended by adding the following section—

Persons on parole deemed still under sentence.

50T. If the parole period specified in a parole order elapses without—

- (a) the making of an order under this Part of this Act or under the law of the State or Territory in which the parole order was made cancelling the prisoner's parole; or
- (b) the sentencing of the prisoner to another term of imprisonment for any offence by reason whereof his parole is cancelled by force of the provisions of this Part of this Act or of the law of the State or Territory in which he was released upon parole,

the prisoner for the purposes of this Part of this Act—

- (c) shall be regarded as having served his term of imprisonment, detention for a period, or detention during Her Majesty's pleasure in respect of which he was released on parole; and
- (d) by force of this section is wholly discharged therefrom or in the case of an habitual criminal, ceases to be such,

but until the parole so elapses or until he is otherwise discharged from his sentence of imprisonment, detention for a period, or detention during Her Majesty's pleasure, a prisoner

released on parole shall for the purposes of this Part of this Act be regarded as being still under sentence or detention and as not having suffered the punishment to which he was sentenced or as not having undergone detention during the period for which he was ordered to be detained or, in the case of an habitual criminal as being an habitual criminal and liable to be further detained during Her Majesty's pleasure and no part of the time between his release on parole and his recommencing to serve the unexpired portion of his term of imprisonment or detention shall be regarded as time served in respect of that term. .

44. The principal Act is amended by adding the following heading and section—

Division 3
added.
S. 50U
added.

Division 3.—General.

50U. (1) Where an interstate warrant of a kind referred to in subsection (1) of section fifty H or subsection (1) of section fifty K or subsection (7) of section fifty Q of this Act, in this section referred to as an "interstate warrant", has been issued under a law of another State or a Territory and the person to whom the warrant relates is brought into this State in the custody of a person who appears to have been entitled under the authority of the warrant to have custody of that person in the State or Territory from which he is so brought that warrant authorises the member of the Police Force or other person to whom it is directed, for the purposes of conveying him to the State or Territory in which the warrant was issued, to take or keep the person to whom it relates in custody in this State.

Probationers
and
prisoners
in transit.

(2) An interstate warrant is sufficient authority for the detention in custody of the person to whom it relates in a prison, lock-up or other place of detention.

(3) A person shall not be detained in custody under an interstate warrant after the expiration of five days from the time when the person was brought into the State in custody in pursuance of the warrant.

(4) An interstate warrant authorises a member of the Police Force or other person to whom the warrant is directed and all Police officers of this State to apprehend the person to whom the warrant relates if that person escapes from custody and return him to any custody in which he may be detained under the authority of the warrant. .

S. 50V added.

45. The principal Act is amended by adding the following section—

Proof of orders, etc., made in another State or Territory.

50V. (1) A certificate under the hand of a member, secretary or other proper officer of a Parole Board, or other prescribed authority, of another State or a Territory purporting to record any order, determination or decision of the Board, or other authority, is evidence of that order, determination or decision, and of the making of the order, determination or decision.

(2) All courts, the Board and persons having, by law or consent of the parties, authority to hear, receive and examine evidence—

(a) shall take judicial notice of the signature of every person who is or has been a member, secretary or other proper officer of a Parole Board, or other prescribed authority of another State or a Territory that is attached or appended to any document that is or relates to a probation or parole order made or having force and effect in that State or Territory; and

- (b) shall unless the contrary is proved, presume that every such signature is properly attached or appended thereto.

(3) In proceedings under this Act relating to a probationer or a prisoner, a document under the hand of the Chief or Principal Probation Officer, or the Chief or Principal Parole Officer of the State or Territory in which the probation order, or parole order in question was made or where made in this State is in force and effect, setting forth matters relevant to the offence upon conviction for which the probation or parole order was made, the probationer's or prisoner's conduct subsequent to release upon probation or parole order, his antecedents and other matters relevant to his probation and parole shall be received by all courts and the Board as evidence of the matters set forth therein.

(4) All courts and the Board and persons having, by law or consent of the parties, authority to hear, receive and examine evidence—

- (a) shall take judicial notice of the the signature of every person who is or has been the Chief or Principal Probation Officer, or the Chief or Principal Parole Officer, or other prescribed officer, of another State or a Territory, that is attached or appended to any document that relates to a probation or parole order made, or having force and effect, in that State or Territory or to a probationer or prisoner in respect of whom such an order is made; and

- (b) shall unless the contrary is proved, presume that every such signature is properly attached or appended thereto. .

s. 50W
added.

46. The principal Act is amended by adding the following section—

Consultation
with respect
to breaches
of probation
or parole
orders.

50W. (1) Except in special circumstances, before proceedings are taken under this Part of this Act with respect to a breach of a probation order, or a parole order, to which this Part of this Act relates, the Chief Probation Officer or the Chief Parole Officer, as the case may be—

- (a) shall give notice thereof to the corresponding officer of the other State or Territory in which the probation order or parole order, as the case may be, was made;
- (b) shall invite that officer of the other State or Territory to make such report and recommendation, as he thinks fit, with respect to the proposed proceedings; and
- (c) shall give due consideration to any report and recommendation made under paragraph (b) of this subsection.

(2) In any proceedings under this Part of this Act with respect to breaches of an order referred to in subsection (1) of this section, a court or the Board may take into consideration any report and recommendation made under paragraph (b) of that subsection. .

s. 51A
added.

47. The principal Act is amended by adding after section fifty-one the following section—

Power to
take pro-
ceedings.

51A. (1) (a) Proceedings in respect of offences arising under Part II and Division 1 of Part IIIA of this Act may be taken by the Chief Probation Officer or by a person authorised in writing in that behalf by that officer.

(b) A certificate under the hand of the Chief Probation Officer of an authorisation under this subsection is evidence of that authorisation.

(2) (a) Proceedings in respect of offences arising under Part III and Division 2 of Part IIIA of this Act may be taken by a person authorised in that behalf by the Board either generally or in a particular case.

(b) A certificate under the hand of the Secretary to the Board of an authorisation under this subsection is evidence of that authorisation.
